

REMARKS

This application is in condition for allowance.

Claim 3 and 18 are amended to correct the misspellings pointed out in the Official Action.

Claims 1, 3, 4, 11, 13, 15-18, and 29-32 remain pending in the present application.

The Official Action withdraws the previously indicated allowable subject matter presently recited in claim 1.

Claims 1, 3, 4, 11, 13, 15-18, and 29-32 are rejected under 35 USC §103(a) as being unpatentable over WO 99/42521, English equivalent U.S. 6,375,959 ("959") in view of FR 97-04876, English equivalent U.S. 6,353,034, ("034") and CHAUDREY et al. US 5,804,202 ("CHAUDREY"). This rejection is respectfully traversed.

The Official Action arrives at the claimed invention by adding the acrylamide/AMPS copolymer of CHAUDREY to the inverse emulsion of '959, adding alkyl glycoside the inverse emulsion of '959, and adding octyl palmitate to the inverse emulsion of '959

With respect to use octyl palmitate in the inverse emulsion of '959 in particular, the Official Action concludes that there is no difference between addition octyl palmitate to the inverse latex composition before or after formulation as a product.

However, the fact that octyl palmitate is used as an oil phase of a cosmetic emulsion does not constitute an incentive

for one of ordinary skill in the art to use octyl palmitate as an oil phase of an inverse latex.

The purpose of the oil phase in an inverse latex is to provide the location for a polymerization reaction to occur, i.e., in order to form the inverse latex. On the contrary, the purpose of the oil phase of a cosmetic formulation does not suffer from any type of chemical reaction.

Thus, the purpose of octyl palmitate in each oil phase is different.

Accordingly, there would have been no suggestion in CHAUDREY to use a fatty acid ester of the formula (Ib), such as octyl palmitate, as an oil phase of the inverse latex.

Moreover, plant oils, as understood by one of ordinary skill in the art, are fatty acid triglycerides whereas synthetic oil, as understood by one of ordinary skill in the art, are obtained from crude oil. Accordingly, neither one of these terms would suggest a fatty ester according to formula (Ib).

Thus, the proposed combination cannot render obvious the claimed invention, and withdrawal of the rejection is respectfully requested.

Claims 1, 3, 4, 11, 13, 15-18, and 29-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of US Patent 7,033,600 in view of WO 99/42521, English equivalent U.S. 6,375,959 ("959")

and FR 97-04876, English equivalent U.S. 6,353,034, ("034") and CHAUDREY et al. US 5,804,202 ("CHAUDREY").

Claims 1, 3, 4, 11, 13, 15-18, and 29-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of US Patent 6,673,861 in view of WO 99/42521, English equivalent U.S. 6,375,959 ("959") and FR 97-04876, English equivalent U.S. 6,353,034, ("034") and CHAUDREY et al. US 5,804,202 ("CHAUDREY").

Claims 1, 3, 4, 11, 13, 15-18, and 29-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of US Patent 7,348,016 in view of WO 99/42521, English equivalent U.S. 6,375,959 ("959") and FR 97-04876, English equivalent U.S. 6,353,034, ("034") and CHAUDREY et al. US 5,804,202 ("CHAUDREY").

Claims 1, 3, 4, 11, 13, 15-18, and 29-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of US Patent Application No. 11/850,989 in view of WO 99/42521, English equivalent U.S. 6,375,959 ("959") and FR 97-04876, English equivalent U.S. 6,353,034, ("034") and CHAUDREY et al. US 5,804,202 ("CHAUDREY").

These four rejections are moot, as a terminal disclaimer is filed along with this amendment with respect to US Patent 7,033,600, US Patent 6,673,861, US Patent 7,348,016, US Patent Application No. 11/850,989.

In view of the amendment to the claims and the foregoing remarks, the present application is in condition for allowance at the time of the next Official Action. Allowance and passage on that basis is respectfully requested.

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The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX

- a Terminal Disclaimer